

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 48-003-16-1-5-00508-17
Petitioner: David Easterly
Respondent: Madison County Assessor
Parcel No.: 48-12-18-302-087.000-003
Assessment Year: 2016

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. David Easterly filed a Form 130 with the Madison County Property Tax Assessment Board of Appeals (“PTABOA”). The PTABOA issued a determination valuing the property as follows:

| Year | Land | Improvements | Total |
|------|----------|--------------|----------|
| 2016 | \$ 6,000 | \$31,000 | \$37,000 |

2. Easterly filed a Form 131 petition with the Board, electing to have his appeal heard under the Board’s small claims procedures. The Assessor did not elect to remove the matter from small claims.
3. The Board’s designated Administrative Law Judge (“ALJ”), Timothy Schuster, held a hearing on June 14, 2018. Neither he nor the Board inspected the property.
4. Brian A. Cusimano represented the Assessor. Anthony Garrison testified under oath for the Assessor. David Easterly represented himself and testified under oath.

Facts

5. The subject property is a duplex located at 810 E. 21st Street in Anderson, Indiana. Each unit is a 1 bedroom, 1 bathroom apartment. *Pet’r Ex. 1.*

Record

6. Both parties submitted an appraisal report prepared by Wyatt Buzzard. We refer to it as Petitioner’s Exhibit 1.

a. Exhibits:

| | |
|-------------------------|--|
| Petitioner's Exhibit 1: | Buzzard appraisal, |
| Respondent's Exhibit A: | Buzzard appraisal, |
| Respondent's Exhibit B: | 2016 subject property record card ("PRC"). |

b. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeal, (2) all orders, notices, and memorandum issued by the Board or ALJ, and (3) the digital recording of the hearing.

Burden of Proof

7. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year's level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b). Easterly conceded that he bore the burden of proof. We agree with Easterly's concession and find that the burden of proof remains with him. *Easterly testimony.*

Contentions

8. Summary of the Petitioner's case:

- a. Easterly offered an appraisal prepared by Wyatt Buzzard¹ of Liggett Appraisals. Buzzard is an Indiana certified residential appraiser, and he certified that his appraisal conforms to the Uniform Standards of Professional Appraisal Practice ("USPAP"). The effective date of the appraisal was March 2, 2016. *Pet'r. Ex. 1 at 3, 7, 21.*
- b. Buzzard developed all three generally recognized appraisal techniques, the sales-comparison approach, the income approach, and the cost approach.
- c. Buzzard selected four comparable properties for his sales-comparison approach. All four properties are in Anderson and within 1.21 miles of the subject property. The properties sold between October 5, 2015 and January 7, 2016. Buzzard made upward and downward adjustments for his comparable properties. He gave the most weight

¹ Buzzard was not present and did not testify at the hearing.

to comparables 1 and 2, while using 3 and 4 for bracketing purposes. Buzzard settled on a value of \$32,000 for the subject property using this approach. *Pet'r. Ex. 1 at 3.*

- d. Buzzard developed his income approach using comparable properties 1, 2, and 3 from the sales-comparison approach. Buzzard noted that market rents ranged from \$400 to \$1200 with a typical market rent of \$500 per unit for the subject property. Buzzard used market rents to develop a gross rent multiplier (“GRM”) of 42. By multiplying his market rent of \$500 by 42, Buzzard found a value of \$42,000 using the income approach. Easterly argued that Buzzard should have used the actual rent of \$400 per unit rather than the \$500 market rent. *Id. at 2.*
 - e. Buzzard developed a cost approach to estimate the replacement cost new of the property. He used cost data from Marshall & Swift for his estimates. After accounting for physical depreciation, Buzzard arrived at a cost approach value of \$109,797. *Id. 3, 4.*
 - f. Buzzard reconciled all three approaches and gave the most weight to his sales-comparison approach because it used completed market transactions. Buzzard valued the property at \$32,000 as of March 2, 2016. Easterly argued the appraisal reflects the true value of the property. *Id. at 3; Easterly testimony.*
9. Summary of the Respondent’s case:
- a. Anthony Garrison, a consultant that works for the Assessor, testified that under Indiana law the GRM is the preferred method for valuing an income producing property like the subject. For this reason, the Assessor argued that subject should be assessed at \$42,000—the conclusion from Buzzard’s income approach. *Garrison testimony; Pet'r Ex. 1.*

Analysis

10. The goal of Indiana’s real property assessment system is to arrive at an assessment reflecting the property’s true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. “True tax value” does not mean “fair market value” or “the value of the property to the user.” I.C. § 6-1.1-31-6(c) and (e). It is instead determined under the DLGF’s rules. I.C. § 6-1.1- 31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines “true tax value” as “market value in use,” which it in turn defines as “[t]he market value in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” MANUAL at 2. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are “appropriate for determining true tax value.” MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property’s true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id. at 3; see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct). Regardless

of the method used, a party must explain how his or her evidence relates to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* For the 2016 assessment, the valuation date was January 1, 2016. I.C. § 6-1.1-4-4.5(f).

11. Easterly submitted a USPAP compliant appraisal. Buzzard, the appraiser, developed all three generally recognized approaches to value giving the greatest weight to the sales comparison approach because of its quality of data. Although Easterly testified that he did not receive as much rent for the subject property as estimated by Buzzard, we find the appraisal to be a credible estimate of value.
12. The Assessor asked the Board to adopt the value from Buzzard's income approach because I.C. § 6-1.1-4-39(b) states that the GRM method is preferred for rental properties like the subject. While the GRM is the preferred method, it is important to note that it is preferred, not required. In this case, where the appraiser gave more weight to a different approach because of the quality of data available, we find it appropriate to depart from the preferred method and rely on Buzzard's conclusion of \$32,000.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Board determines the subject property's 2016 assessed value should be \$32,000.

ISSUED: September 7, 2018

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.